



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,431	12/30/2003	Brian Alan Grove	2043.101US1	9577
49845	7590	11/08/2007	EXAMINER	
SCHWEGMAN, LUNDBERG & WOESSNER/EBAY			GART, MATTHEW S	
P.O. BOX 2938			ART UNIT	PAPER NUMBER
MINNEAPOLIS, MN 55402			3625	
NOTIFICATION DATE		DELIVERY MODE		
11/08/2007		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/749,431	GROVE ET AL.
	Examiner Matthew S. Gart	Art Unit 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 03 October 2007.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 17-41 is/are pending in the application.  
 4a) Of the above claim(s) 37-41 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 17-36 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/3/2007 has been entered.

### ***Claim Summary***

- Claims 17, 28, 36 and 37 are independent (4 Total).
- Total Claims pending = 25

***Election/Restrictions***

Newly submitted claims 37-41 are directed towards a method of analyzing a listing and providing to a seller a suggestion for updating the listing, the suggestion being based on the analyzing of the listing. The rest of the pending claims are directed towards receiving question and providing answers to said questions.

Because claims 37-41 are distinct for the reasons given above and the search required for claims 37-41 are not required for the originally submitted claims, restriction for examination purposes as indicated is proper. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 37-41 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 35 is rejected under 35 U.S.C. 112, first paragraph because it is a single means claim. A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. *In re Hyatt*, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor.).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 17-18, 20-24, 26-29, and 31-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson (U.S. Patent No. 6,671,674).**

Referring to claim 17. Anderson discloses a method comprising:

receiving a question associated with a listing for an item during an auction price-setting process (Anderson: Fig. 8a);

receiving an indication from a seller to authorize provision of an answer to the question (Anderson: Fig. 8a); and

selectively providing the answer to the question based on the indication (Anderson: Fig. 8a).

Referring to claim 18. Anderson discloses a method of claim 17, the receiving of the question including receiving the question over a communications network (Anderson: Fig. 8a).

Referring to claim 20. Anderson discloses the method of claim 18, including receiving the question from a bidder (Anderson: Fig. 8a).

Referring to claim 21. Anderson discloses the method of claim 18, including receiving the question from the seller (Anderson: Fig. 8a).

Referring to claim 22. Anderson discloses the method of claim 17, comprising providing the question in conjunction with the providing of the answer (Anderson: Fig. 8a).

Referring to claim 23. Anderson discloses the method of claim 22, the providing of the question including publishing the question on the listing for the item (Anderson: Fig. 8a).

Referring to claim 24. Anderson discloses the method of claim 17, the providing of the answer including providing the answer over a communications network (Anderson: Fig. 8a).

Referring to claim 26. Anderson discloses the method of claim 17, the providing of the answer including publishing the answer on the listing for the item.

Referring to claim 27. Anderson discloses the method of claim 17, comprising receiving the answer from the seller over a communications network.

Referring to claims 28-29 and 31-34. Claims 28-29 and 31-34 are rejected under the same rationale as set forth above.

Referring to claim 35. Claim 35 is rejected under the same rationale as set forth above.

Referring to claim 36. Claim 36 is rejected under the same rationale as set forth above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 19, 25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent No. 6,671,674) in view of Vargas (U.S. Patent Application Publication No. 2002/0046187).**

Referring to claims 19, 25 and 30. Anderson does not expressly disclose the receiving of the question including receiving the question via an electronic mail message, and the providing of the answer including providing the answer via an electronic mail message. Vargas discloses the receiving of the question including receiving the question via an electronic mail message, and the providing of the answer including providing the answer via an electronic mail message (Vargas: Paragraph 0043).

At the time of invention, it would have been obvious to one have modified the system of Anderson to have included providing answers to questions via an electronic mail message so buyers may be provided with an opportunity to request additional information or ask specific questions of a seller in a timely manner (Vargas: Paragraph 0043).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSG  
Primary Examiner  
AU 3625

MATTHEW S. GART  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600